

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Andrew B. Calhoun, Jr., President of Pacific West Capital Group, Inc.
Andrew B. Calhoun IV
Matthew A. Sonnen
PACIFIC WEST CAPITAL GROUP, INC.
PACIFIC WEST CAPITAL GROUP TRUST
12400 Wilshire Boulevard, Suite 1210
Los Angeles, California 90025

DESIST AND REFRAIN ORDER

(For violations of section 25110 and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times, Andrew B. Calhoun, Jr. ("Calhoun") was the President of PACIFIC WEST CAPITAL GROUP, INC., a California corporation.
2. At all relevant times, Andrew B. Calhoun IV ("Calhoun IV") was an officer, director or control person of PACIFIC WEST CAPITAL GROUP, INC., a California corporation, and was a salesperson in the offer and sale of "life settlement" investments.
3. At all relevant times, Matthew A. Sonnen ("Sonnen") was a salesperson working for PACIFIC WEST CAPITAL GROUP, INC., a California corporation, in the offer and sale of "life settlement" investments.
4. At all relevant times, PACIFIC WEST CAPITAL GROUP, INC. ("PWCG"), was a California

1 corporation, authorized by the California Secretary of State to conduct business in the State of
2 California.

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4 5. At all relevant times, PACIFIC WEST CAPITAL GROUP TRUST ("PWCG TRUST"), was
5 a trust established in the State of Ohio, set up by PWCG to receive investor funds and be the owner of
6 a life insurance policy and the beneficiary of life insurance policy death benefits. The designated
7 Trustee of the PWCG TRUST is an accounting firm, Mills, Potoczak & Company, located in
8 Cleveland, Ohio, whose principal, William Potoczak, manages the trust account.

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10 6. Beginning in or about August 2004, Calhoun, Calhoun IV and Sonnen, on behalf of PWCG
11 and the PWCG TRUST, offered or sold securities in the form of an investment contract described as
12 an "interest in life settlements" or more specifically fractional or proportional interests in life
13 insurance policy death benefits, in and from the State of California.

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15 7. Through general solicitation advertising, including print media and radio advertisements in
16 major California urban markets, PWCG, PWCG TRUST, Calhoun, Calhoun IV, Sonnen and others
17 employed by PWCG offered or sold these investments, beginning at a \$20,000 minimum investment,
18 to the general public.

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20 8. The investors completely relied on PWCG and Calhoun to locate the life insurance policy,
21 choose the policy, set the amount of return on the investment, evaluate the anticipated life
22 expectancy, purchase the policy, manage the investors' money, pay the policy premiums, track the
23 health status of the insured, process all necessary paperwork to receive the policy benefit upon the
24 death of the insured and properly disburse the money to investors.

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26 9. Calhoun, Calhoun IV, Sonnen and PWCG told investors that the use of the PWCG TRUST
27 ensures the "integrity" of the investment because the trust is independent of PWCG. Calhoun and
28 PWCG state in the sales brochure that "We [PWCG] never touch your funds". In fact, a large portion

1 of the investor funds, although paid to the PWCG TRUST "Escrow Account," is transferred
2 immediately from the Trustee to PWCG for use in financing the PWCG sales effort and otherwise
3 diverted for compensation to Calhoun and others working for the PWCG company. Further, the
4 "trust" is a legal fiction that has no substance except a bank account maintained by the accountant
5 Trustee, William Potoczak.

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7 10. Calhoun, Calhoun IV, Sonnen and PWCG told investors that it took "steps to assure
8 maximum protection" of investor funds, including: establishing a "primary premium reserve escrow
9 account" with "sufficient cash value" to make insurance premium payments for "life expectancy plus
10 two years"; and establishing "two other general reserve accounts that can be used to pay premiums".
11 In fact, there are two bank accounts, the PWCG TRUST "Escrow Account" into which the investors'
12 money is deposited and the "Premium Escrow Account" from which premiums are supposed to be
13 paid. However, a substantial amount of money was transferred from the "Premium Escrow Account"
14 to other bank accounts designated as "Investment Accounts" and never returned to the "Premium
15 Escrow Account".

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17 11. In connection with these offers and sales, Andrew B. Calhoun, Jr., Andrew B. Calhoun IV,
18 Matthew A. Sonnen, Pacific West Capital Group, Inc., and Pacific West Capital Group Trust, made,
19 or caused to be made the following misrepresentations or omissions of material fact:

20 a. Misrepresented that the securities being offered were not required to be qualified,
21 since they met a particular exemption, when, in fact, they did not meet any exemption and were not
22 qualified as required by the California securities laws;

23 b. Omitted the fact that the "trust" was simply a bank account into which all investor
24 funds were initially deposited and from which substantial sums of money were immediately
25 transferred to PWCG and Calhoun to fund the business operations;

26 c. Misrepresented that there was more than one account that would be used to protect the
27 investment, when, in fact, the "Premium Escrow Account" was the only account maintained for the
28 payment of premiums on life insurance policies, and a substantial amount of money was transferred

1 from that account to other bank accounts and not returned to the Premium Escrow Account;

2 d. Omitted the fact that although PWCG and its principals and sales people use the term
3 “life expectancy” as a benchmark in discussing the investment, the company has no way to accurately
4 predict when someone will die and, therefore, has no verifiable time table for when any investor will
5 be paid a return.

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7 12. These securities were offered or sold in this state in issuer transactions. Calhoun and PWCG
8 stated in the sales brochure: “Without a doubt, in California, life settlements are considered securities
9” PWCG claims that these securities are exempt from qualification under Corporations Code
10 section 25102(q). However, the investors do not have any ownership, beneficiary or other direct
11 interest in the insurance policy death benefits, but only a general “interest” in the PWCG TRUST
12 bank account by way of a written contract.

13 In addition, PWCG states in its “Purchase Agreement” that when the investor’s money is
14 received, PWCG may not even have an interest in any life insurance policy, so the investor’s money
15 simply goes into a general fund for later use. Investors’ funds are commingled in the trust’s escrow
16 account. The PWCG TRUST is the owner of all life insurance policies and is the only beneficiary on
17 a substantial percentage of the policies. The trust account also receives the death benefit funds from
18 insurance companies which are commingled for eventual distribution to the investors by the Trustee.
19 By using the “trust” account, PWCG has created a pool of money in which investors have a common
20 interest not only with each other, but with PWCG that is also paid directly from the funds in the
21 “trust” account.

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23 Based upon the foregoing findings, the California Corporations Commissioner is of the
24 opinion that the investment contracts in the form of “life settlements” or any other form of fractional
25 or proportional interests in life insurance policy death benefits, offered and sold by ANDREW B.
26 CALHOUN, JR., ANDREW B. CALHOUN IV, MATTHEW A. SONNEN, PACIFIC WEST
27 CAPITAL GROUP, INC. AND PACIFIC WEST CAPITAL GROUP TRUST are securities subject
28 to qualification under the California Corporate Securities Law of 1968 and are being or have been

1 offered or sold without being qualified or exempt in violation of Corporations Code section 25110.
2 Pursuant to section 25532 of the Corporate Securities Law of 1968, ANDREW B. CALHOUN,
3 ANDREW B. CALHOUN IV, MATTHEW A. SONNEN, PACIFIC WEST CAPITAL GROUP,
4 INC., and PACIFIC WEST CAPITAL GROUP TRUST, are hereby ordered to desist and refrain
5 from the further offer or sale in the State of California of securities in the form of investment
6 contracts in "life settlements," or any other form of fractional or proportional interests in life
7 insurance policy death benefits, unless and until qualification has been made under the law or unless
8 exempt.

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10 Further, the California Corporations Commissioner is of the opinion that the securities of
11 ANDREW B. CALHOUN, ANDREW B. CALHOUN IV, MATTHEW A. SONNEN, PACIFIC
12 WEST CAPITAL GROUP, INC., and PACIFIC WEST CAPITAL GROUP TRUST were offered or
13 sold in this state by means of written or oral communications which included an untrue statement of a
14 material fact or omitted to state a material fact necessary in order to make the statements made, in the
15 light of the circumstances under which they were made, not misleading, in violation of section 25401
16 of the Corporate Securities Law of 1968. Pursuant to section 25532 of the Corporate Securities Law
17 of 1968, ANDREW B. CALHOUN, ANDREW B. CALHOUN IV, MATTHEW A. SONNEN,
18 PACIFIC WEST CAPITAL GROUP, INC., and PACIFIC WEST CAPITAL GROUP TRUST are
19 hereby ordered to desist and refrain from offering or selling or buying or offering to buy any security
20 in the State of California, including but not limited to investment in "life settlements" or any
21 fractional or proportional interests in life insurance policy death benefits, by means of any written or
22 oral communication which includes an untrue statement of a material fact or omits to state a material
23 fact necessary in order to make the statements made, in the light of the circumstances under which
24 they were made, not misleading.

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1 This Order is necessary, in the public interest, for the protection of investors and consistent
2 with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

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4 Dated: December 11, 2007

5 Los Angeles, California

6 PRESTON DuFAUCHARD
7 California Corporations Commissioner

8 By _____
9 ALAN S. WEINGER
10 Lead Corporations Counsel
11 Enforcement Division